

**EXHIBIT 6**

## KAREL SPIKES

CASE #	DESCRIPTION	FILED	DISTRICT
3:05-cv-00286-L-LSP	Spikes v. Mattia, et al	filed 02/09/05 closed 10/31/05	Southern District
3:05-cv-00393-WQH-AJB	Spikes v. Kattoula, et al	filed 02/28/05 closed 10/19/05	Southern District
3:05-cv-01086-J-BLM	Spikes v. Edward Lasalle Trust, et al	filed 05/20/05 closed 12/01/05	Southern District
3:05-cv-01087-BEN-BLM	Spikes v. Dennison Trust, et al	filed 05/20/05 closed 08/26/05	Southern District
3:05-cv-01088-BTM-RBB	Spikes v. Robledo 1994 Trust, et al	filed 05/20/05 closed 11/08/05	Southern District
3:05-cv-01539-BTM-RBB	Spikes v. Evans Tire & Svc Ctr, et al	filed 08/02/05 closed 11/15/05	Southern District
3:05-cv-02164-JAH-POR	Spikes v. Vista Food Market, et al	filed 11/22/05 closed 04/26/06	Southern District
3:06-cv-02188-JAH-CAB	Spikes v. New Conquest, Inc. et al	filed 10/03/06 closed 08/17/07	Southern District
3:07-cv-00259-IEG-JMA	Spikes v. Charles Auto Repair, et al.	filed 02/08/07 closed 04/13/07	Southern District
3:07-cv-00260-L-RBB	Spikes v. Lyman et al	filed 02/08/07 closed 07/26/07	Southern District
3:07-cv-00543-JMA	Spikes v. South Bay Motorsports et al	filed 03/23/07 closed 07/10/07	Southern District
3:07-cv-00545-BEN-RBB	Spikes v. Imperial Auto Electric et al	filed 03/23/07 closed 08/07/07	Southern District
3:07-cv-00603-H-JMA	Spikes v. BNN Enterprises, Inc. et al	filed 04/03/07 closed 12/27/07	Southern District
3:07-cv-00605-WQH-BLM	Spikes v. Ajou et al	filed 04/03/07	Southern District
3:07-cv-00617-J-POR	Spikes v. Don Chava Mexican Grill & Seafood et al	filed 04/05/07 closed 12/10/07	Southern District
3:07-cv-00748-J-NLS	Spikes v. Filiberto's Mexican Food et al	filed 04/24/07 closed 09/21/07	Southern District
3:07-cv-01408-JAH-POR	Spikes v. Ramada Inn et al	filed 08/01/07	Southern District
3:07-cv-02318-JLS-RBB	Spikes v. TNT Auto Sales, Inc et al	filed 12/11/07	Southern District
3:07-cv-02393-IEG-WMC	Spikes v. Import Auto Body et al	filed 12/20/07	Southern District
3:07-cv-02394-LAB-WMC	Spikes v. European Car Service et al	filed 12/20/07	Southern District
3:07-cv-02395-LAB-AJB	Spikes v. The Auto Center et al	filed 12/20/07	Southern District
3:07-cv-02396-IEG-WMC	Spikes v. JD Collision Center, Inc. et al	filed 12/20/07	Southern District
3:98-cv-01951-BTM-AJB	Spikes v. Najjar, et al	filed 10/27/98 closed 06/23/99	Southern District
3:98-cv-01952-H-AJB	Spikes v. Epstein Investments, et al	filed 10/27/98 closed 07/08/99	Southern District
3:98-cv-01953-JM-JAH	Spikes v. Vinh Hung Supermkt, et al	filed 10/27/98 closed 08/12/99	Southern District
3:98-cv-01980-K-JAH	Spikes v. Lamplighter Inn, et al	filed 10/30/98 closed 11/29/99	Southern District
3:98-cv-02357-BTM-AJB	Spikes v. RTM West Inc, et al	filed 12/30/98 closed 02/08/00	Southern District
3:99-cv-00352-K-POR	Spikes v. Dallo and Company, et al	filed 02/26/99 closed 08/27/99	Southern District
3:03-cv-02129-W-POR	Spikes v. 1538 E Main LLC, et al	filed 10/29/03 closed 08/02/04	Southern District
3:04-cv-00094-JAH-JMA	Spikes v. Nasser, et al	filed 01/14/04 closed 09/10/04	Southern District
3:06-cv-00217-LAB-LSP	Spikes v. Video, et al	filed 01/30/06 closed 07/31/07	Southern District
3:98-cv-01440-E-POR	Spikes v. Royal Hospitality, et al	filed 08/07/98 closed 04/21/99	Southern District
3:98-cv-01591-BTM-LSP	Spikes v. Estates, et al	filed 09/02/98 closed 05/13/99	Southern District
3:98-cv-01592-LSP	Spikes v. Citizens Development, et al	filed 09/02/98 closed 08/18/99	Southern District

**KAREL SPIKES**

<b>CASE #</b>	<b>DESCRIPTION</b>	<b>FILED</b>	<b>DISTRICT</b>
3:00-cv-00006-CGA	Spikes v. Del Mission Liquor, et al	filed 01/03/00 closed 06/22/00	Southern District
3:00-cv-00144-IEG-NLS	Spikes v. Shell Gasoline, et al	filed 01/24/00 closed 06/14/00	Southern District
3:00-cv-00566-AJB	Spikes v. Burger King, et al	filed 03/17/00 closed 10/17/00	Southern District
3:00-cv-01588-J-CGA	Spikes v. Taing, et al	filed 08/07/00 closed 11/21/00	Southern District
3:00-cv-01589-H-NLS	Spikes v. Somo, et al	filed 08/07/00 closed 03/27/01	Southern District
3:00-cv-01590-W-CGA	Spikes v. Rauls Mexican Food, et al	filed 08/07/00 closed 10/19/00	Southern District
3:00-cv-02056-BTM-JAH	Spikes v. Fuel Sys Warehouse, et al	filed 10/13/00 closed 02/26/01	Southern District
3:00-cv-02306-B-RBB	Spikes v. Koutzmbis, et al	filed 11/16/00 closed 03/22/01	Southern District
3:01-cv-00732-J-NLS	Spikes v. Nikos Gelastopoulos, et al	filed 04/25/01 closed 09/17/01	Southern District
3:01-cv-00881-IEG-LAB	Spikes v. Encanto Drive In, et al	filed 05/21/01 closed 08/21/01	Southern District
3:01-cv-00884-K-AJB	Spikes v. Parts Plus, et al	filed 05/21/01 closed 08/08/01	Southern District
3:01-cv-01869-J-AJB	Spikes v. Tran, et al	filed 10/15/01 closed 09/25/02	Southern District
3:01-cv-01870-BTM-JAH	Spikes v. Lam, et al	filed 10/15/01 closed 02/19/02	Southern District
3:01-cv-02110-W-JAH	Spikes v. California Chicken, et al	filed 11/16/01 closed 04/04/02	Southern District
3:01-cv-02111-L-NLS	Spikes v. Adalbertos Mexican, et al	filed 11/16/01 closed 03/12/02	Southern District
3:02-cv-00342-L-POR	Spikes v. Mulkins, et al	filed 02/25/02 closed 08/06/02	Southern District
3:02-cv-00553-BTM-NLS	Spikes v. Muang Lao Market, et al	filed 03/22/02 closed 06/18/02	Southern District
3:02-cv-00555-L-AJB	Spikes v. Wrights Party, et al	filed 03/22/02 closed 07/15/02	Southern District
3:02-cv-00878-K-LSP	Spikes v. Finlay, et al	filed 05/06/02 closed 11/07/02	Southern District
3:02-cv-00879-J-JFS	Spikes v. APRO, et al	filed 05/06/02 closed 08/27/02	Southern District
3:02-cv-00973-J-RBB	Spikes v. Food Bargain Market, et al	filed 05/16/02 closed 09/20/02	Southern District
3:02-cv-01142-BTM-RBB	Spikes v. Hilltop Liquor Store, et al	filed 06/11/02 closed 01/22/03	Southern District
3:02-cv-01169-JM-CGA	Spikes v. Canfield Brakes, et al	filed 06/13/02 closed 12/06/02	Southern District
3:02-cv-01211-LSP	Spikes v. United Market and, et al	filed 06/19/02 closed 11/15/02	Southern District
3:02-cv-01219-BTM-AJB	Spikes v. Markos Family, et al	filed 06/21/02 closed 11/04/02	Southern District
3:02-cv-01220-W-JFS	Spikes v. Vaqueros Mexican, et al	filed 06/21/02 closed 12/30/02	Southern District
3:02-cv-01221-B-CGA	Spikes v. Broadway Auto Elec, et al	filed 06/21/02 closed 11/07/02	Southern District
3:02-cv-01511-K-RBB	Spikes v. La Mesa Mini Mart, et al	filed 08/01/02 closed 04/08/03	Southern District
3:02-cv-02403-IEG-NLS	Spikes v. Big O Tires, et al	filed 12/06/02 closed 06/23/03	Southern District
3:02-cv-02404-J-AJB	Spikes v. Hair Pros, et al	filed 12/06/02 closed 03/12/03	Southern District
3:02-cv-02405-LAB-NLS	Spikes v. Crispy Fried Chicken, et al	filed 12/06/02 closed 07/20/04	Southern District
3:02-cv-02406-J-JFS	Spikes v. Big K Market, et al	filed 12/06/02 closed 06/30/03	Southern District
3:02-cv-02407-JM-POR	Spikes v. Grove Pastry Shop, et al	filed 12/06/02 closed 02/26/03	Southern District
3:03-cv-00087-LSP	Spikes v. Star Light Market, et al	filed 01/14/03 closed 05/02/03	Southern District



**KAREL SPIKES**

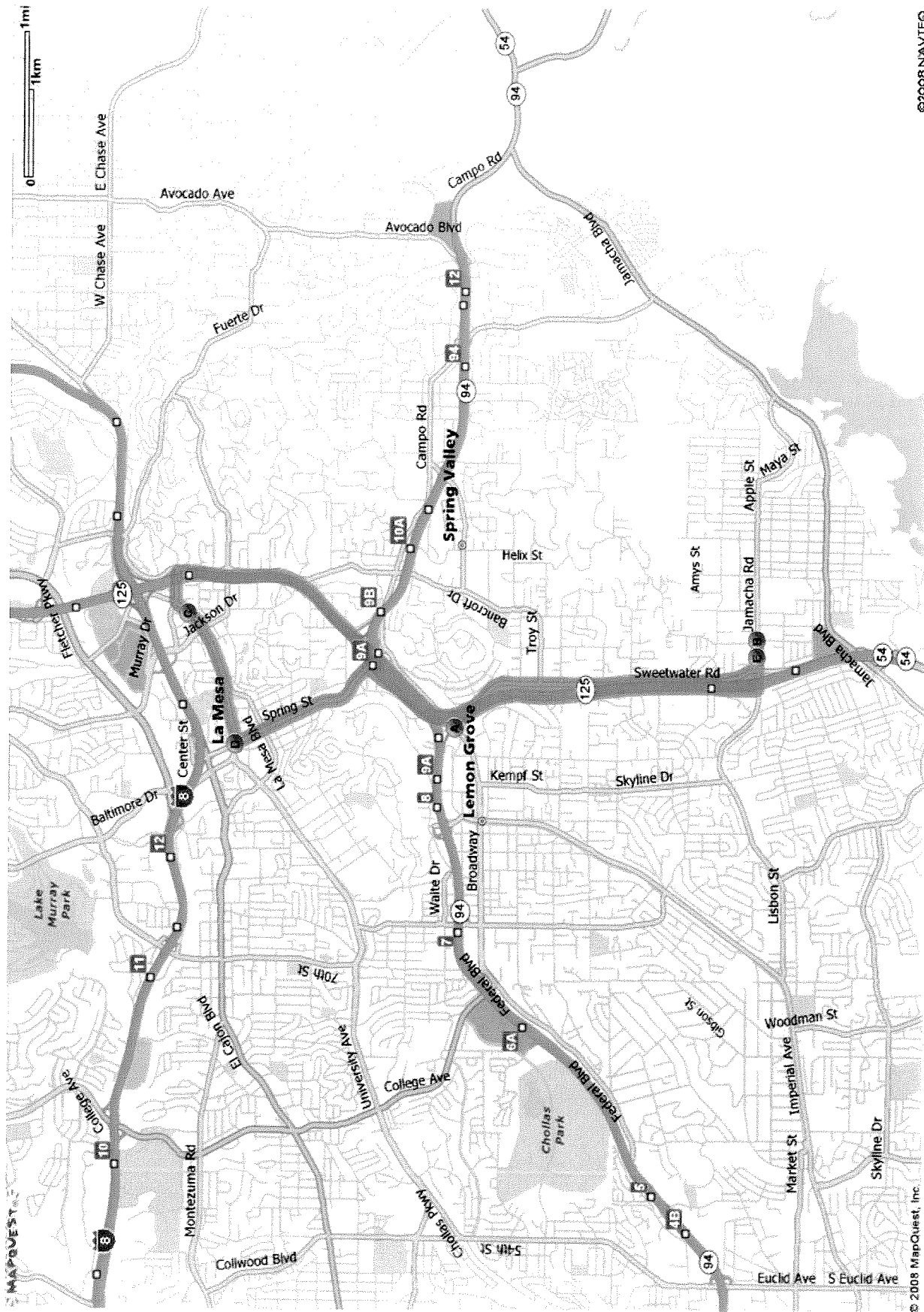
<b>CASE #</b>	<b>DESCRIPTION</b>	<b>FILED</b>	<b>DISTRICT</b>
3:03-cv-00122-JM-POR	Spikes v. Sound Diego, et al	filed 01/21/03 closed 09/10/03	Southern District
3:03-cv-00123-B-AJB	Spikes v. Salsa Brava Taco, et al	filed 01/21/03 closed 06/27/03	Southern District
3:03-cv-00124-BTM-NLS	Spikes v. Konja, et al	filed 01/21/03 closed 05/12/03	Southern District
3:03-cv-01510-W-LSP	Spikes v. Molcarla Mexican, et al	filed 08/04/03 closed 01/06/04	Southern District
3:03-cv-01867-J-NLS	Spikes v. Klopp, et al	filed 09/16/03 closed 11/21/03	Southern District
3:03-cv-01951-J-JFS	Spikes v. Convenient, et al	filed 10/01/03 closed 05/12/04	Southern District
3:03-cv-01987-W-NLS	Spikes v. Bond, et al	filed 10/06/03 closed 08/06/04	Southern District
3:03-cv-02130-LAB-WMC	Spikes v. Moses, et al	filed 10/29/03 closed 03/22/04	Southern District
3:03-cv-02131-WQH-JMA	Spikes v. Gomez, et al	filed 10/29/03 closed 05/14/04	Southern District
3:04-cv-00034-W-BLM	Spikes v. Walchef, et al	filed 01/07/04 closed 05/07/04	Southern District
3:04-cv-00340-BEN-POR	Spikes v. Budget Furniture, et al	filed 02/19/04 closed 08/10/04	Southern District
3:04-cv-00341-J-AJB	Spikes v. Postal Annex, et al	filed 02/19/04 closed 07/21/04	Southern District
3:04-cv-00453-DMS-NLS	Spikes v. World Oil Marketing, et al	filed 03/04/04 closed 08/13/04	Southern District
3:04-cv-00454-LAB-WMC	Spikes v. Fitz & Alices Beer, et al	filed 03/04/04 closed 09/02/04	Southern District
3:04-cv-00455-LAB-LSP	Spikes v. 99 Motel, et al	filed 03/04/04 closed 06/23/04	Southern District
3:04-cv-00463-JM-BLM	Spikes v. El Sabroso, et al	filed 03/05/04 closed 08/31/04	Southern District
3:04-cv-00464-BEN-LSP	Spikes v. Checks Cashed for, et al	filed 03/05/04 closed 12/17/04	Southern District
3:04-cv-00472-DMS-LSP	Spikes v. Mandalin Imports, et al	filed 03/08/04 closed 09/08/04	Southern District
3:04-cv-00612-L-POR	Spikes v. Sunbelt Towing Inc, et al	filed 03/24/04 closed 10/21/04	Southern District
3:04-cv-00673-WQH-JFS	Spikes v. Top Tune, et al	filed 04/02/04 closed 09/24/04	Southern District
3:04-cv-00743-JM-JFS	Spikes v. Beauty Boutique Inc, et al	filed 04/12/04 closed 08/23/04	Southern District
3:04-cv-00865-J-JFS	Spikes v. Mojica, et al	filed 04/26/04 closed 09/29/04	Southern District
3:04-cv-01885-LAB-JFS	Spikes v. In & Out Market, et al	filed 09/17/04 closed 01/26/05	Southern District
3:04-cv-01886-DMS-RBB	Spikes v. Juanitos Taco Shop, et al	filed 09/17/04 closed 01/05/05	Southern District
3:04-cv-01950-JAH-JFS	Spikes v. Shamoun Inc, et al	filed 09/27/04 closed 05/03/05	Southern District
3:04-cv-02069-DMS-LSP	Spikes v. Auto Parts, et al	filed 10/14/04 closed 03/25/05	Southern District
3:04-cv-02070-L-WMC	Spikes v. A1 Hire Ltd, et al	filed 10/14/04 closed 02/28/05	Southern District
3:04-cv-02157-DMS-RBB	Spikes v. Care Drugs, et al	filed 10/26/04 closed 01/07/05	Southern District
3:04-cv-02158-RBB-RBB	Spikes v. Kenaya, et al	filed 10/26/04 closed 03/14/05	Southern District
3:04-cv-02159-IEG-POR	Spikes v. Kassab, et al	filed 10/27/04 closed 02/17/05	Southern District
3:04-cv-02264-BLM	Spikes v. Apro LLC, et al	filed 11/10/04 closed 02/17/05	Southern District
3:05-cv-00085-J-JFS	Spikes v. Park Market, et al	filed 01/14/05 closed 09/08/05	Southern District
3:05-cv-00197-POR	Spikes v. Rodriguez, et al	filed 02/01/05 closed 05/20/05	Southern District
3:05-cv-00285-BTM-POR	Spikes v. California Smog, et al	filed 02/09/05 closed 06/22/05	Southern District

**KAREL SPIKES**

<b>CASE #</b>	<b>DESCRIPTION</b>	<b>FILED</b>	<b>DISTRICT</b>
3:02-cv-02067-BTM-NLS	Spikes v. 99 Cent and Variety, et al	filed 10/18/02 closed 05/05/03	Southern District
3:03-cv-01087-LAB-RBB	Spikes v. La Cresta Motel, et al	filed 05/30/03 closed 08/20/04	Southern District
3:03-cv-01089-W-JAH	Spikes v. Main Street Liquor, et al	filed 05/30/03 closed 08/29/03	Southern District
3:03-cv-01090-K-POR	Spikes v. Harveys Tour Inn, et al	filed 05/30/03 closed 10/23/03	Southern District
3:03-cv-01091-DMS-NLS	Spikes v. Car Audio Heaven, et al	filed 05/30/03 closed 10/16/03	Southern District
3:03-cv-01092-JAH-JFS	Spikes v. Harloff Auto Parts, et al	filed 05/30/03 closed 06/23/04	Southern District
3:03-cv-01869-L-LSP	Spikes v. Countrytime Food, et al	filed 09/16/03 closed 02/10/04	Southern District
3:04-cv-00864-J-BLM	Spikes v. Bottle Shop, et al	filed 04/26/04 closed 07/09/04	Southern District
3:04-cv-01608-JM-NLS	Spikes v. Fishman, et al	filed 08/06/04 closed 01/18/05	Southern District
3:04-cv-01951-LAB-WMC	Spikes v. Robledo, et al	filed 09/27/04 closed 03/23/05	Southern District
3:06-cv-02435-JAH-CAB	Spikes v. M. Elias, Inc. et al	filed 11/03/06 closed 04/02/07	Southern District
3:07-cv-00201-DMS-CAB	Spikes v. South Bay Auto Wholesale, Inc. et al	filed 01/30/07 closed 08/22/07	Southern District
3:07-cv-00226-JAH-POR	Spikes v. Fairmount Autos et al	filed 02/02/07 closed 07/27/07	Southern District
3:07-cv-00258-JMA	Spikes v. Truck N Toys, Inc. et al	filed 02/08/07 closed 06/12/07	Southern District
3:07-cv-00401-BTM-NLS	Spikes v. Franklin et al	filed 03/02/07 closed 08/20/07	Southern District
3:07-cv-00608-W-WMC	Spikes v. Class A Trophies Buttons & More et al	filed 04/03/07 closed 09/05/07	Southern District
3:07-cv-01197-DMS-WMC	Spikes v. Pro Mex Automotive et al	filed 06/29/07 closed 01/23/08	Southern District
3:07-cv-02026-DMS-WMC	Spikes v. In & Out Car Wash, Inc. et al	filed 10/19/07	Southern District
3:07-cv-02027-JLS-LSP	Spikes v. Body Beautiful Car Wash, Inc. et al	filed 10/19/07	Southern District
2:05-cv-01598-SJO-RZ	Karel Spikes v. Laguna Inn and Suites et al	filed 03/03/05 closed 10/26/05	Central District
2:05-cv-01599-TJH-MAN	Karel Spikes v. Super 8 Motel et al	filed 03/03/05 closed 06/27/06	Central District
2:05-cv-01602-R-MAN	Karel Spikes v. Best Western Montebello Plaza Hotel et al	filed 03/03/05 closed 11/28/05	Central District
2:05-cv-05071-DT-SH	Karel Spikes v. Laguna Hills Hotel Development Venture et al	filed 07/11/05 closed 03/27/06	Central District

**EXHIBIT 7**





		<u>CASE #</u>	<u>DESCRIPTION</u>	<u>FILED</u>	<u>DISTRICT</u>
<b>A</b>	<b><u>TNT AUTO SALES</u></b>	<u>3:07-cv-02318-JLS-RBB</u>	Spikes v. TNT Auto Sales, Inc et al	12/11/2007	SOUTHERN
	8247 BROADWAY				
	LEMON GROVE, CA 91945				
<b>B</b>	<b><u>IMPORT AUTO BODY</u></b>	<u>3:07-cv-02393-IEG-WMC</u>	Spikes v. Import Auto Body et al	12/20/2007	SOUTHERN
	8811 JAMACHA ROAD				
	SPRING VALLEY, CA 91977				
<b>C</b>	<b><u>EUROPEAN CAR SERVICE</u></b>	<u>3:07-cv-02394-LAB-WMC</u>	Spikes v. European Car Service et al	12/20/2007	SOUTHERN
	8855 LA MESA BOULEVARD				
	LA MESA, CA 91941				
<b>D</b>	<b><u>THE AUTO CENTER</u></b>	<u>3:07-cv-02395-LAB-AJB</u>	Spikes v. The Auto Center et al	12/20/2007	SOUTHERN
	8203 UNIVERSITY AVENUE				
	LA MESA, CA 91941				
<b>E</b>	<b><u>JD COLLISION CENTER</u></b>	<u>3:07-cv-02396-IEG-WMC</u>	Spikes v. JD Collision Center, Inc. et al	12/20/2007	SOUTHERN
	8730 JAMACHA ROAD				
	SPRING VALLEY, CA 91977				
<b>F</b>	<b><u>PERCISION MOTORS</u></b>	<u>3:07-cv-02396-IEG-WMC</u>	Spikes v. JD Collision Center, Inc. et al	12/20/2007	SOUTHERN
	8740 JAMACHA ROAD				
	SPRING VALLEY, CA 91977				
<b>G</b>	<b><u>MD AUTO REPAIR &amp; TIRES</u></b>	<u>3:07-cv-02396-IEG-WMC</u>	Spikes v. JD Collision Center, Inc. et al	12/20/2007	SOUTHERN
	8750 JAMACHA ROAD				
	SPRING VALLEY, CA 91977				



**EXHIBIT 8**

1 Lawrence Mudgett SBN 252898  
2 Athanasios Prevolos SBN 182334  
3 Prevolos & Associates, a Law Corporation  
4 401 B Street, Suite 1520  
5 San Diego, CA 92101  
6 Telephone: 619-696-0520  
7 Facsimile: 619-238-5344

8 Attorney for Defendants  
9 Zenon Smoczynski and European Car Service

10 **DECLARATION OF RACHEL FERREIRA**


11 I am RACHEL FERREIRA, I have independent personal knowledge of the facts attested  
12 herein and declare them to be true and correct under penalty of perjury. If called upon to do  
13 so I could and would testify to the same.

- 14 1) I am a law clerk at the law offices of Prevolos and Associates captioned  
15 above.
- 16 2) On or about February 21, 2008 I entered Karel Ray Spikes' name into the  
17 federal online Pacer system for the Southern District.
- 18 3) I thereby discovered the 124 ADA lawsuits levied by Karel Spikes, I entered  
19 them into a spreadsheet, and that spreadsheet is attached hereto as exhibit 6.
- 20 4) The spreadsheet accurately reflects the lawsuits as they appeared on the Pacer  
21 website.
- 22 5) I then highlighted the lawsuits against auto repair shops filed on or about the  
23 time Plaintiff filed the present action.
- 24 6) I discovered 5 lawsuits against auto repair shops since 12/11/2007 and 4 were  
25 filed on 12/20/2007 including the present action.
- 26 7) I then googled the names of the other auto repair shops and found the  
27 addresses.
- 28 8) I placed the addresses into google maps and keyed them. The map and key  
are attached hereto as exhibit 7.
- 9) I also queried the cases brought by Plaintiff Spikes against auto repair  
facilities in the Pacer system.

- 1           10)    In each of the six (6) suits queried, Amy Vandeveld is the attorney of record.  
2           11)    I then viewed the complaints as filed in each action.  
3           12)    All 6 were virtually identical but for the Defendant's names and the dates Mr.  
4               Spikes alleged to have visited the Defendant's businesses.

5   I declare under penalty of perjury under the laws of the State of California that the foregoing  
6   is true and correct.

7  
8   Dated: March 7, 2008

  
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Rachel Ferreira

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**EXHIBIT 9**

1 Lawrence Mudgett SBN 252898  
2 Prevolos & Associates, a Law Corporation  
3 401 B Street, Suite 1520  
4 San Diego, CA 92101  
5 Telephone: 619-696-0520  
6 Facsimile: 619-238-5344

7  
8 Attorney for Defendants  
9 Zenon Smoczynski and European Car Service

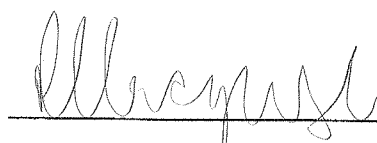
10 **DECLARATION OF ANDREW MACIEJEWSKI**

11 I am ANDREW MACIEJEWSKI, I have independent personal knowledge of the facts  
12 attested herein and declare them to be true and correct under penalty of perjury. If called  
13 upon to do so I could and would testify to the same.

- 14 1) I moved away from San Diego in June 2001 and currently reside out of the  
15 state.  
16 2) I was neither at European Car Service on January 15, 2008 nor was I within  
17 the state of California on that date.  
18 3) I have not been personally served with a civil complaint of any kind in this  
19 case or in any other matter.

20 I declare under penalty of perjury under the laws of the State of California that the  
21 foregoing is true and correct.

22 Dated: March 3, 2008

23  
24   
25 Andrew Maciejewski  
26  
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**EXHIBIT 10**



**PREVOLOS  
& ASSOCIATES**  
A LAW CORPORATION

San Diego  
401 B Street, Suite 1520  
San Diego, CA 92101  
Phone 619-696-0520  
Fax 619-238-5344

La Mesa  
P.O. Box 2820  
La Mesa, CA 91941  
Toll Free 888-626-4law  
www.thelawcorp.com

February 5, 2007

Amy Vandeveld  
1850 5<sup>th</sup> Avenue #22  
San Diego, CA 92101

Re: Spikes v European Car Service  
Case No. 07CV2394LABWMC  
Demand & Settlement Offer

*Sent Via U.S. Mail*

Dear Amy:

This letter confirms our firm's representation of defendants European Car Service and Zenon Smoczynski in the above captioned matter. We are in receipt of your civil complaint and you may direct all future correspondence to my attention.

**Demand**

You are hereby noticed, advised, cautioned and we formally demand that you immediately withdraw the Summons executed by Karel Spikes as to Andrew Maciejewski (docket item #4 filed on 1/23/2008). Under penalty of perjury and using your firm's letterhead, process server Greg Cole has declared that he personally served Andrew Maciejewski at 8855 La Mesa Boulevard, La Mesa, CA 91941 on January 15, 2008 at 10:00am.

Andrew Maciejewski's whereabouts are currently unknown, he was not present at the address listed on the date in question, and he is no longer involved with the business. Furthermore, substitute service is not permitted at an individual's business under the Federal Rules. F.R.C.P. § 4(d)(1) (emphasis added). In addition, Mr. Maciejewski cannot receive substituted service at European Car Service under the California Code of Civil Procedure either because European Car Service is not his "usual place of business." CCCP § 415.20(b).

Therefore, you have fraudulently indicated to the court that you personally served Andrew Maciejewski and you cannot substitute serve him at European Car Service under either the Federal or California state rules of civil procedure. Accordingly, you have until Friday February 29, 2008 to remove the fraudulent filing or I will file motion with the court.

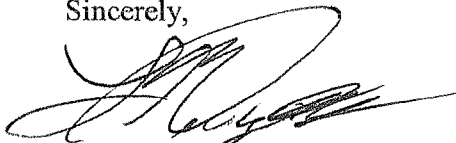
**Confidential Settlement Offer**

[REDACTED]

Amy Vandeveld  
February 5, 2007  
Page 2 of 2

[REDACTED]

Sincerely,



Lawrence A. Mudgett III

LAM:lam

Encl.

CC: Zenon Smoczynski  
European Car Service  
8855 La Mesa Blvd  
La Mesa, CA 91941

**EXHIBIT 11**



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5 Attorney for Defendants European Car Service and  
Zenon Smoczynski  
6

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11  
12 KAREL SPIKES.

13 Plaintiff,

14 vs.

15 EUROPEAN CAR SERVICE; ANDREW  
MACIEJEWSKI; ZENON SMOCZYNSKI,  
and DOES 1 THROUGH 10, Inclusive.

16 Defendants.  
17  
18  
19

Case No. 07CV2394LABWMC

ANSWER TO CIVIL COMPLAINT

20 NOW COME Defendants EUROPEAN CAR SERVICE and ZENON SMOCZYNSKI  
21 (hereby DEFENDANTS), by and through their attorneys of record Preovolos & Associates, ALC  
22 file this Answer to the Civil Complaint of Plaintiff KAREL SPIKES as follows:

23 That Defendants deny all allegations in Plaintiff's Complaint unless specifically admitted  
24 or explained otherwise:

25 **JURISDICTION AND VENUE**

26 1 With respect to Paragraph 1, PLAINTIFF'S Complaint sets forth legal conclusions to  
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1 which no response is required.

2 2 With respect to Paragraph 2, PLAINTIFF'S Complaint sets forth legal conclusions to  
3 which no response is required.

4 3 With respect to Paragraph 3, PLAINTIFF'S Complaint sets forth legal conclusions to  
5 which no response is required. However, DEFENDANTS deny that PLAINTIFF was denied  
6 equal access to DEFENDANTS facilities, goods, and/or services. DEFENDANTS deny that they  
7 have violated either federal or state law. DEFENDANTS deny injuring PLAINTIFF.

8 **THE PARTIES**

9 4 With respect to Paragraph 4, DEFENDANTS admit that EUROPEAN CAR SERVICES  
10 is located at 8855 La Mesa Boulevard, La Mesa, CA (hereinafter "the subject property") and the  
11 lessee of the subject property. DEFENDANTS deny all remaining allegations set forth in  
12 paragraph 4 of PLAINTIFFS Complaint.

13 5 With respect to Paragraph 5 of PLAINTIFFS Complaint, DEFENDANTS deny the  
14 allegations.

15 6 With respect to Paragraph 6 of PLAINTIFFS Complaint, DEFENDANTS admit the  
16 allegations.

17 7 With respect to Paragraph 7 of PLAINTIFFS Complaint, DEFENDANTS deny the  
18 allegations

19 8 With respect to Paragraph 8 lines 22-28 of PLAINTIFFS Complaint, DEFENDANTS are  
20 without knowledge or information sufficient to admit or deny the facts contained in the  
21 paragraphs. Therefore DEFENDANTS deny the allegations. With respect to lines 1-6,  
22 DEFENDANTS deny that PLAINTIFF availed herself to goods, services, facilities, privileges,  
23 advantages, or accommodations operated and/or owned by DEFENDANTS and/or located on the  
24 subject property.

25 9 With respect to Paragraph 9 of PLAINTIFFS Complaint, DEFENDANTS deny the  
26 allegations.

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1 10 With respect to Paragraph 10 of PLAINTIFF'S Complaint, DEFENDANTS are without  
2 knowledge or information sufficient to admit or deny the facts contained in the paragraphs.  
3 Therefore, DEFENDANTS deny the allegations.

4 11 With respect to Paragraph 11 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
5 allegations.

6 12 With respect to Paragraph 12 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
7 allegations.

8 13 With respect to Paragraph 13 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
9 allegations.

10 14 With respect to Paragraph 14 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
11 allegations.

12 15 With respect to Paragraph 15 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
13 allegations.

14 16 With respect to Paragraph 16 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
15 allegations.

16 **FIRST CLAIM FOR RELIEF**

17 17 With respect to Paragraph 17 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
18 allegations.

19 18 With respect to Paragraph 18 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
20 allegations.

21 19 With respect to Paragraph 19 of PLAINTIFF'S Complaint, DEFENDANTS admit that  
22 PLAINTIFF is seeking injunctive relief. DEFENDANTS deny that PLAINTIFF is entitled to it.

23 **SECOND CLAIM FOR RELIEF**

24 20 With respect to Paragraph 20 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
25 allegations.

26 21 With respect to Paragraph 21 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
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1 allegations.

2 22 With respect to Paragraph 22 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
3 allegations.

4 23 With respect to Paragraph 23 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
5 allegations.

6 24 With respect to Paragraph 24 of PLAINTIFF'S Complaint, DEFENDANTS admit that  
7 PLAINTIFF is seeking relief. DEFENDANTS deny that PLAINTIFF is entitled to it

8 **THIRD CLAIM FOR RELIEF**

9 25 With respect to Paragraph 25 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
10 allegations.

11 26 With respect to Paragraph 26 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
12 allegations.

13 27 With respect to Paragraph 27 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
14 allegations.

15 28 With respect to Paragraph 28 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
16 allegations.

17 **FOURTH CLAIM FOR RELIEF**

18 29 With respect to Paragraph 29 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
19 allegations.

20 30 With respect to Paragraph 30 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
21 allegations.

22 31 With respect to Paragraph 31 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
23 allegations.

24 **FIFTH CLAIM FOR RELIEF**

25 32 With respect to Paragraph 32 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
26 allegations.

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1 33 With respect to Paragraph 34 of PLAINTIFF'S Complaint, DEFENDANTS deny the  
2 allegations..

3 34 With respect to Paragraph 34 of PLAINTIFF'S Complaint, DEFENDANTS admit that  
4 PLAINTIFF is seeking injunctive relief. DEFENDANTS deny that PLAINTIFF is entitled to it.

5 **JURY DEMAND**

6 35 With respect to Paragraph 35 of PLAINTIFF'S Complaint and pursuant to Rule 38 of the  
7 Federal Rules of Civil Procedure, DEFENDANTS are amenable to a jury trial

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 PLAINTIFF'S Complaint, and each purported claim for relief therein, fails to state facts  
11 sufficient to constitute a claim for relief against the answering DEFENDANTS.

12 **SECOND AFFIRMATIVE DEFENSE**

13 PLAINTIFFS did not exercise ordinary care, caution or prudence and the resultant alleged  
14 injuries and/or damages, if any, were legally contributed to and caused by PLAINTIFFS careless  
15 and negligence thus barring or diminishing PLAINTIFFS recovery against these answering  
16 DEFENDANTS.

17 **THIRD AFFIRMATIVE DEFENSE**

18 Any alleged wrongful acts or deprivation of rights were legally caused by third parties other than  
19 this DEFENDANT, thus barring or diminishing PLAINTIFFS recovery against these  
20 DEFENDANTS. Additionally, these answering DEFENDANTS would be entitled to  
21 contribution and/or indemnification from such third parties.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 PLAINTIFF'S claims are barred by the applicable statute of limitations.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 PLAINTIFF'S lack standing and/or are not members of the class intended to be protected by the  
26 applicable law and, accordingly PLAINTIFF'S claims are barred.

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1 SIXTH AFFIRMATIVE DEFENSE

2 PLAINTIFFS failed to mitigate their damages, if any, thus barring or diminishing PLAINTIFF'S  
3 recovery against the answering DEFENDANTS.

4 SEVENTH AFFIRMATIVE DEFENSE

5 PLAINTIFFS claims are barred by the equitable doctrine of unclean hands and/or laches

6 EIGHTH AFFIRMATIVE DEFENSE

7 PLAINTIFF'S claims for equitable remedies are barred due to the doctrine of waiver and/or  
8 estoppel.

9 NINTH AFFIRMATIVE DEFENSE

10 The answering DEFENDANTS assert, without admitting that it engaged in any of these acts or  
11 conduct attributed to it by the Complaint, that any of the alleged acts or conduct which may have  
12 been engaged in by DEFENDANT were reasonable, justified, in good faith, privileged and/or for  
13 legitimate, non-discriminatory business reasons.

14 TENTH AFFIRMATIVE DEFENSE

15 Any duty or obligation which PLAINTIFF'S claim is owed by DEFENDANT has been fully  
16 performed satisfied and/or discharged.

17 ELEVENTH AFFIRMATIVE DEFENSE

18 PLAINTIFF'S claims are barred by their failure to properly exhaust the appropriate remedies  
19 and/or perform the necessary conditions precedent.

20 TWELFTH AFFIRMATIVE DEFENSE

21 PLAINTIFF'S have failed to state a claim for injunctive and/or equitable relief.

22 THIRTEENTH AFFIRMATIVE DEFENSE

23 PLAINTIFF'S claims are moot.

24 FOURTEENTH AFFIRMATIVE DEFENSE

25 PLAINTIFF'S claims are barred because the answering DEFENDANTS did not discriminate  
26 against them by refusing to provide full and equal enjoyment of any accommodation or service  
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1 allegedly offered.

2 **FIFTEENTH AFFIRMATIVE DEFENSE**

3 These answering DEFENDANTS alleged acts were not arbitrary and intentional, and/or such  
4 alleged acts were in the furtherance of legitimate business interest and, accordingly  
5 PLAINTIFF'S claims are barred.

6 **SIXTEENTH AFFIRMATIVE DEFENSE**

7 These answering DEFENDANTS assert that its alleged policies and/or practices bear a  
8 reasonable relation to commercial objectives appropriate to an enterprise allegedly serving the  
9 public and, accordingly PLAINTIFF'S claims are barred.

10 **SEVENTEENTH AFFIRMATIVE DEFENSE**

11 These answering DEFENDANTS assert that it is not a business entity covered by the Unruh Act,  
12 Americans with Disabilities Act, or the other statutes referenced by PLAINTIFFS in their  
13 Complaint and, accordingly, PLAINTIFFS claims are barred as these answering DEFENDANTS.

14 **EIGHTEENTH AFFIRMATIVE DEFENSE**

15 PLAINTIFFS did not suffer damages attributable to the action or inaction of this answering  
16 DEFENDANT during the period alleged in PLAINTIFFS Complaint.

17 **NINETEENTH AFFIRMATIVE DEFENSE**

18 These answering DEFENDANTS assert its alleged actions and/or inaction is based on its  
19 exercise of constitutionally protected rights, under both the United States and California  
20 Constitutions. As a result, PLAINTIFFS are not entitled to the relief requested in the Complaint.

21 **TWENTIETH AFFIRMATIVE DEFENSE**

22 PLAINTIFF'S claims are preempted by other federal and/or state laws.

23 **TWENTY FIRST AFFIRMATIVE DEFENSE**

24 These answering DEFENDANTS assert that any alleged failure by DEFENDANT to alter, repair,  
25 or modify the premises does not give rise to a claim for relief by PLAINTIFFS under the Unruh  
26 Act, since the Unruh Act specifically exempts such conduct from the scope of the act.

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1 **TWENTY SECOND AFFIRMATIVE DEFENSE**

2 These answering DEFENDANTS had no duty to modify, alter, or repair already existing  
3 structures. Accordingly, PLAINTIFF'S claims as these DEFENDANTS are barred.

4 **TWENTY THIRD AFFIRMATIVE DEFENSE**

5 These answering DEFENDANTS assert it had no duty to provide a higher degree of care for an  
6 individual with an alleged disability than for an individual who is not disabled under the  
7 circumstances. Accordingly, PLAINTIFF'S claims as these answering DEFENDANTS are  
8 barred.

9 **TWENTY FOURTH AFFIRMATIVE DEFENSE**

10 These answering DEFENDANTS assert its alleged policies are facially neutral and are thus not  
11 actionable by these PLAINTIFFS.

12 **TWENTY FIFTH AFFIRMATIVE DEFENSE**

13 These answering DEFENDANTS assert that there have been no alterations, structural repairs, or  
14 additions made since the time-frame proscribed by law, and/or any such alleged alterations,  
15 structural repairs, or additions were made to areas unrelated to PLAINTIFFS claims.  
16 Accordingly, PLAINTIFFS claims are barred.

17 **TWENTY SIXTH AFFIRMATIVE DEFENSE**

18 DEFENDANTS assert that the changes and/or modifications of the premises to address the  
19 allegations set forth in the Complaint are not required by the Americans with Disabilities Act, the  
20 ADAAG or California Title 24 Building Code Requirements.

21 **TWENTY SEVENTH AFFIRMATIVE DEFENSE**

22 DEFENDANT asserts that punitive and and/or exemplary damages are so punitive in purpose  
23 and effect as to constitute a criminal penalty, entitling this DEFENDANT to the rights given to  
24 DEFENDANTS in criminal proceedings under the United States and California Constitutions.  
25 All procedures and application of California and Federal law in this action which deny these  
26 answering DEFENDANTS such rights including, but not limited to, a burden of proof beyond a  
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1 reasonable doubt, a unanimous jury and the right against self-incrimination, violate these  
2 answering DEFENDANTS rights under such constitutional provisions.

3 **TWENTY EIGHTH AFFIRMATIVE DEFENSE**

4 These answering DEFENDANTS assert that punitive, treble, and/or exemplary damages violate  
5 this answering DEFENDANTS due process rights and impose an undue burden on interstate  
6 commerce, as such protection is provided under the United States and California Constitutions.

7 **TWENTY NINTH AFFIRMATIVE DEFENSE**


8 These answering DEFENDANTS presently have insufficient knowledge or information upon  
9 which to form a belief as to whether as yet unknown, affirmative defenses exist. Therefore  
10 DEFENDANTS accordingly reserves the right to assert additional affirmative defenses in the  
11 event discovery indicates it would be appropriate.

12  
13 WHEREFORE, EUROPEAN CAR SERVICE and ZENON SMOCZYNSKI pray for judgment  
14 as follows:

- 15 1) That the Complaint against DEFENDANTS be dismissed with prejudice.  
16 2) That PLAINTIFFS take nothing by their Complaint, and that judgment be entered in  
17 favor of DEFENDANTS;  
18 3) That PLAINTIFF be granted no relief in this action;  
19 4) That DEFENDANTS be awarded its costs of suit and attorney's fees incurred therein; and  
20 5) That DEFENDANTS be awarded such other and relief as the Court deems just and  
21 proper.

22  
23 Dated: February 4, 2008

PREVOLOS & ASSOCIATES

24 By: 

25 Thanasi Prevolos  
26 Attorney for Defendants

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28 **ANSWER TO CIVIL COMPLAINT**